

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RANDAL PRUIT,

Plaintiff,

v.

No. 2:22-cv-372 WJ/KRS

STATE OF NEW MEXICO and  
FRED VAN SOELEN,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION TO STAY DISCOVERY**

THIS MATTER is before the Court on Defendants' Motion to Stay Discovery Pending Resolution of Defendants' Entitlement to Eleventh Amendment, Absolute, and Qualified Immunity, (Doc. 18), filed August 15, 2022. Defendants ask the Court to stay discovery pending resolution of their Motion for Judgment on the Pleadings, (Doc. 17), in which they raise the defense qualified immunity. Defendants state that Plaintiff opposes the Motion to Stay, but Plaintiff has not filed a response and the time for doing so has passed.<sup>1</sup> Plaintiff's failure to file a response in opposition to the Motion to Stay within the time prescribed for doing so constitutes consent to grant the motion. *See D.N.M. LR-Civ. 7.1(b)*. Furthermore, it is well settled that a qualified immunity defense protects government officials "both from liability as well as from the ordinary burdens of litigation, including far-ranging discovery." *Workman v. Jordan*, 958 F.2d 332, 335 (10th Cir. 1992) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 817-18 (1982)). The Supreme Court has "repeatedly ... stressed the importance of resolving immunity questions at

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<sup>1</sup> Plaintiff's last Notice of Extension to File Answer to Defendants' Motions, (Doc. 26), states that the parties agreed to extend Plaintiff's deadline to respond to Defendants' motions to October 6, 2022. The Court also notes that at the July 12, 2022 status conference, Plaintiff stated he agreed to a stay of discovery pending a ruling on Defendants' motion to dismiss. (Doc. 8) (Clerk's Minutes).

the earliest possible stage in litigation.” *Pearson v. Callahan*, 555 U.S. 223, 232 (2009). Thus, in general, when a defendant asserts the defense of qualified immunity, the district court should stay discovery until the immunity issue is resolved. *Workman*, 958 F.2d at 336.

IT IS THEREFORE ORDERED that Defendants’ Motion to Stay Discovery Pending Resolution of Defendants’ Entitlement to Eleventh Amendment, Absolute, and Qualified Immunity, (Doc. 18), is GRANTED and discovery is stayed in this case pending resolution of Defendants’ Motion for Judgment on the Pleadings, (Doc. 17).



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KEVIN R. SWEAZEA  
UNITED STATES MAGISTRATE JUDGE